

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

H. JAY SPIEGEL & ASSOCIATES, P.C.)
)
)
Plaintiff,)
v.) Civil Action No. 1:08cv949
) JCC/TRJ
STEVEN M. SPIEGEL)
)
)
Defendant.)

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

____ Plaintiff H. JAY SPIEGEL & ASSOCIATES, P.C. (Plaintiff) hereby moves, pursuant to FedRCivP 56 and Local Civil Rule 56, for summary judgment for Plaintiff on Counts I, II and III of Plaintiff's Complaint alleging federal trademark infringement under 15 U.S.C. § 1114, common law trademark infringement, and unfair competition under 15 U.S.C. § 1125(a).

Plaintiff is entitled to summary judgment because there are no facts in dispute preventing the Court from concluding that there is a likelihood of confusion between Plaintiff's use of the federally registered service mark SPIEGELAW.COM to access Plaintiff's website advertising and promoting Plaintiff's legal services, on the one hand, and Defendant's use of the service mark SPIEGELLAW.COM to access his website advertising and promoting Defendant's legal services, on the other hand.

Plaintiff seeks permanent injunctive relief with the Court ordering Defendant to convey ownership of the domain name SPIEGELLAW.COM to Plaintiff. Plaintiff also seeks a briefing

schedule and a hearing to determine whether any other damages as requested in the Complaint are warranted under the facts and circumstances of this case including whether this case should be deemed "exceptional" under 15 U.S.C. § 1117(a) making Plaintiff eligible to seek actual damages and compensation for attorneys' fees.

In support of its Motion, Plaintiff relies upon the accompanying Memorandum which incorporates a listing of Facts Not in Dispute as required by Local Civil Rule 56, the Declaration of Plaintiff's owner, H. Jay Spiegel, and Exhibits 1-22 to that Declaration, which Exhibits comprise true copies of documents revealed during the course of discovery, each of which is referenced both in the Declaration and in the Memorandum.

Respectfully submitted,

H. JAY SPIEGEL & ASSOCIATES

/S/

H. JAY SPIEGEL
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CERTIFICATE OF SERVICE

I, H. Jay Spiegel, hereby certify that on April 15, 2009, I served the foregoing **PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** on Defendant, Steven M. Spiegel, via electronic transmission to his e-mail address sspiegelsq@verizon.net.

Date: April 15, 2009

/S/

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